

State of California  
Regional Water Quality Control Board  
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT  
May 12, 2004

ITEM: 7

SUBJECT: Kinder Morgan Energy Partners, LP, San Diego: Administrative Assessment of Civil Liability containing a \$3,000 Mandatory Minimum Penalty against Kinder Morgan Energy Partners, LP for violation of effluent limitations established by Regional Board Order No. R9-2001-0096, NPDES No. CAG919002, General Waste Discharge Requirements for Groundwater Extraction Waste Discharges From Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters within the San Diego Region, Except for San Diego Bay. The Regional Board will decide on an order accepting payment of the proposed liability and waiver of hearing (Tentative Order No. R9-2004-0101, *Document No. 2*). (*Frank Melbourne*)

PURPOSE: The Regional Board will decide whether to accept Kinder Morgan Energy Partners, LP's signed waiver of public hearing and \$3,000 check in settlement of the allegations in Administrative Civil Liability (ACL) Complaint No. R9-2004-0080 (*Document No. 3*).

PUBLIC NOTICE: A public notice was published in the San Diego Union Tribune on April 9, 2004, and posted on the Regional Board web page on March 23, 2004. Public notice was further provided in the "Notification" section of the April 14, 2004 Regional Board Agenda.

DISCUSSION: Kinder Morgan Energy Partners, LP is the owner of Mission Valley Terminal located at 9950 San Diego Mission Road, San Diego, California, and is enrolled under Order No. R9-2001-0096 to discharge remediated groundwater to Murphy Canyon Creek (WDID No. 9 000000506).

Kinder Morgan Energy Partners, LP reported in its 2001 Semi-Annual monitoring report a Selenium Average Monthly result of 11 µg/L, more than 20% greater than the Effluent Limitation of 5 µg/L for the period between October 15, 2001 and December 31, 2001

Water Code Section 13385(h)(2) states that a “serious violation” means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more. Selenium is a Group II pollutant.

Water Code Section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation. Under Water Code section 13385(h) the amount of the mandatory minimum penalty that must be assessed is \$3,000 for the serious violation.

On March 11, 2004, the Regional Board issued a \$3,000 MMP ACL Complaint No. R9-2004-0080 to Kinder Morgan Energy Partners, LP. Consideration of the factors prescribed in Water Code section 13385(e) based upon information available to the Regional Board supports assessment of civil liability pursuant to Water Code section 13385 in the amount of \$3,000. On March 22, 2004, the Regional Board received a signed waiver of public hearing form and a check for \$3,000 (*Document No. 4*) from Kinder Morgan Energy Partners, LP.

LEGAL CONCERNS:

None.

SUPPORTING  
DOCUMENTS:

1. Site location map.
2. Tentative ACL Order No. R9-2004-0101
3. ACL Complaint No. R9-2004-0080
4. Signed Waiver of Public Hearing

RECOMMENDATION:

Accept Kinder Morgan Energy Partners, LP’s waiver of public hearing and \$3,000 check, and adopt Tentative ACL Order No. R9-2004-0101.